IN THE HIGH COURT OF UTTARAKHAND AT NAINTAL.

Writ Petition No. 1350 (S/S) 2004

Sri Harish Chandra Singh Karakoti
S/o late Sri D.S. Karakoti,
R/o Tehsil-Bhikiyasain,
District Almora,
At present R/o 10 Haripuram, GMS Road,
Dehradun, District Dehradun. .....Petitioner.

Versus

1. State of Uttarakhand through Secretary (Home), Dehradun, district Dehradun,
2. Director General of Police, Uttarakhand, Dehradun,
3. Dy. Inspector General of Police, Police Headquarter, Dehradun,
4. Dy. Inspector General of Police, Police Headquarter, Allahabad U.P. .....Respondents.

Sri Rakesh Thapaliyal, learned counsel for the petitioner,
Sri N.P. Sah, learned Standing Counsel for the State.

Hon'ble M.M. Ghildiyal, J.

Heard Sri P.S. Bisht, Adv. holding brief of Sri Rakesh Thapliyal, learned counsel for the petitioner and Sri N.P. Sah, learned Standing Counsel for the State of Uttarakhand/ respondent nos. 1 to 3.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. Issue a writ, order or direction in the nature of mandamus directing to the respondents to treat the petitioner to be continued upto 60 years i.e. upto 31.12.2002 and be paid arrear of salary including all

other consequential benefits and pensionary benefits alongwith the appropriate rate of interest,

ii. Issue any suitable writ, order or direction which this Hon'ble court may deem fit and proper on the basis of the facts and circumstances of the case,

iii. Award the cost of the petition to the petitioner.

Stand of the petitioner is that the petitioner, who was working as Sub Inspector in the hill district of the then State of U.P. in the police department had opted for State of Uttarakhand, as he was serving in the hill districts of State of U.P. After creation of State of Uttarakhand, the State of U.P. on 28.11.2001 enhanced the age of retirement from 58 years to 60 years. The petitioner to get the benefit of enhanced age of retirement further exercise for change of his option for the State of U.P. on 18.12.2001. The petitioner approached to the Inspector General of Police (Karmic) State of Uttarakhand requesting for change of his option for the State of U.P. so that he may be given the benefit of 60 years. The petitioner was relieved for the State of U.P. by Police Headquarter at Dehradun on 23.12.2001 however, the Deputy Inspector General of Police Establishment U.P. Headquarter Allahabad vide order dated 31.12.2001 has sent back the petitioner to the State of Uttarakhand on the ground that neither the petitioner had opted for State of U.P. nor he has been allocated for State of U.P. therefore, the State of Uttarakhand cannot relieve an employee unilaterally.

In the meantime the petitioner was retired from service from State of Uttarakhand on 31.12.2001 treating the age of supernnuation as 58 years. So far the first prayer, by which the petitioner has prayed to issue a writ of mandamus directing the

respondent to treat the petitioner in service upto 60 years i.e. upto 31.12.2003, is concerned that cannot be issued as the petitioner has already been retired on 31.12.2001 and the State of Uttarakhand has enhanced the age of retirement i.e. 60 years on 31st June 2002.

So far the other prayer made in the prayer clause, that the petitioner be paid all other consequential benefits and pensionary benefits, is concerned the respondent have filed a counter affidavit and in para-5 of the counter affidavit, the respondents have stated that the petitioner has already been paid all the post retirement benefits.

In view of the statement made in para-5 of the counter affidavit, the writ petition has become infructuous and, as such, is dismissed being infructuous.

(**M.M. Ghildiyal, J.)**

March 7, 2007:
NCM: